defined in and licensed under chapter 13, title 39, Idaho Code, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code;

2. "Free-standing skilled care" means a skilled nursing facility, as defined in and licensed under chapter 13, title 39, Idaho Code, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code; (or)

3. "Free-standing special care" means a facility that provides either intermediate care, or skilled care, or intermediate care for the mentally retarded, or any combination of either, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code; or

4. "Hospital-based" means a skilled nursing or intermediate care facility, as defined in and licensed under chapter 13, title 39, Idaho Code, which is owned, managed, or operated by, or is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code.

(7) "Forced sale" is a sale required by a bankruptcy, foreclosure, the provisions of a will or estate settlement pursuant to the death of an owner, physical or mental incapacity of an owner which requires ownership transfer to existing partner or partners, or a sale required by the ruling of a federal agency or by a court order.

(8) "Goodwill" means the amount paid by the purchaser that exceeds the net tangible assets received. The value of goodwill is derived from the economic benefits that a going concern may enjoy, as compared with a new one, from established relations in the related markets, with government departments and other noncommercial bodies and with personal relationships. These intangible assets cannot be separated from the business and sold as can plant and equipment. Under the theory that the excess payment would be made only if expected future earnings justified it, goodwill is often described as the price paid for excess future earnings. The amortization of goodwill is nonallowable, nonreimbursable expense.

(9) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(10) "Interest rate limitation" means that the interest rate allowed for working capital loans and for loans for major movable equipment for intermediate care facilities for the mentally retarded shall be the prime rate as established by the Bank of America Corporation, San Francisco, California, plus one percent (1%) at the date the loan is made. All interest expense greater than the amount derived by using the limitation above shall be nonreimbursable; provided, however, that this interest rate limitations [limitation] shall not be imposed against loans or leases which were made prior to July 1, 1984. Said loans or leases being subject to the tests of reasonableness, relationship to patient care and necessity.

(11) "Intermediate care facility for the mentally retarded" means an habilitative facility designed and operated to meet the educational, training, habilitative and intermittent medical needs of the developmentally disabled.

(12) "Major movable equipment" means such items as accounting machines, beds, wheelchairs, desks, furniture, vehicles, etc. The general characteristics of this equipment are:

1. A relatively fixed location in the building;
2. Capable of being moved, as distinguished from building equipment;
3. A unit cost sufficient to justify ledger control;
4. Sufficient size and identity to make control feasible by means of identification tags; and
5. A minimum life of approximately three (3) years.

(13) "Medicaid" means the 1965 amendments to the social security act (P.L. 89-97), as amended.

(14) "Minor movable equipment" includes such items as wastebaskets, bedpans, syringes, catheters, silverware, mops, buckets, etc. The general characteristics of this equipment are:

1. In general, no fixed location and subject to use by various departments of the provider's facility;
2. Comparatively small in size and unit cost;
3. Subject to inventory control;
4. Fairly large quantity in use; and
5. Generally, a useful life of approximately three (3) years or less.

(15) "Net book value" means the historical cost of an asset, less accumulated depreciation.

(16) "Patient-day" means a calendar day of care which will include the day of admission and exclude the day of discharge unless discharge occurs after 3:00 p.m. or it is the date of death, except that, when admission and discharge occur on the same day, one (1) day of care shall be deemed to exist.

(17) "Property costs" means [mean] the total of allowable interest expense, plus depreciation, property insurance, real estate taxes, amortization, and allowable lease/rental expense. The department may require and utilize an appraisal to establish those components of property costs which are identified as an integral part of an appraisal.

(18) "Reasonable property insurance" means that the consideration given is an amount that would ordinarily be paid by a cost-conscious buyer for comparable insurance in an arm's length transaction. Property insurance per licensed bed in excess of two (2) standard deviations above the mean of the most recently reported property insurance costs per licensed bed of all facilities in the reimbursement class as of the end of a facility's fiscal year shall not be considered reasonable.

(19) "Recipient" means an individual determined eligible by the director for the services provided in the state plan for medicaid.

(20) "Utilities" shall mean all expenses for heat, electricity, water and sewer. Utilities shall

be exempt from the percentile cap.

56-102. PRINCIPLES OF PROSPECTIVE RATES AND PAYMENT. The following principles are inherent in this chapter:

(1) Base rates shall be set by the director prospectively, on an annual basis by class of facilities, and shall be fixed for each class as determined in the manner established by this chapter; and

(2) Prospective base rates shall be established by class not lower than the level which is determined to be adequate to reimburse the nonproperty costs of each facility which is economically and efficiently operated and to provide care which meets the needs of each recipient, in compliance with applicable standards; and

(3) Prospective payment rates established pursuant to this chapter shall take into account economic conditions and trends during the period to be covered by such rates.

56-103. PROSPECTIVE BASE RATES BY CLASS OF FACILITIES.

(a) The director shall fix the maximum base rate for each class of facilities, using the method specified in part B or C of this chapter, whichever is applicable, by determining the standard deviation from the mean of the range of nonproperty costs of care per patient-day for each class and multiplying the standard deviation for each class by two (2). Where the results of that multiplication is:

(1) Less than three dollars ($3.00), all facilities in the class shall be paid up to the one hundredth percentile for such class;

(2) Three dollars ($3.00) but less than six dollars ($6.00), all facilities in the class shall be paid up to the ninetieth percentile for such class;

(3) Six dollars ($6.00) but less than twelve dollars ($12.00), all facilities in the class shall be paid up to the eightieth percentile for such class; or

(4) Twelve dollars ($12.00) or greater, all facilities in the class shall be paid up to the seventy-fifth percentile for such class.

(b) The director may adjust the actual payment for an individual facility when it is determined, in accordance with section 56-106, Idaho Code, that such adjustment is necessary to reflect changing economic conditions and trends affecting such facility during the period in which such rate is in effect for such facility.

(c) The director may further adjust the actual payment for an individual facility when it is determined through audit and settlement, in accordance with section 56-107, Idaho Code, that such adjustment is necessary to reflect the costs of an economically and efficiently operated facility.

56-104. RECAPTURE OF DEPRECIATION.

(a) Where depreciable assets that were reimbursed based on cost and were used in the medicaid program subsequent to January 1, 1982, and for which depreciation has been reimbursed by the director, are sold for an amount in excess of their net book value, depreciation so reimbursed shall be recaptured from the buyer of the facility in an amount equal to reimbursed depreciation or gain on the sale, whichever is less. Depreciation shall be recaptured in full if a sale of a depreciated facility takes place within the first five (5) years of seller's ownership after January 1, 1982.

(b) Depreciation shall be recaptured by the director from the buyer of the facility over a period of time not to exceed five (5) years from the date of sale, with not less than one-fifth (1/5) of the total amount being recaptured for each year after such date.

(c) Leases of facilities entered into on or after the effective date of this subsection shall be reimbursed in the same manner as an owned asset, with recapture of depreciation being effected against the buyer of the facility in the case where the facility's assets are sold by the lessor of the facility. Leases in existence prior to the effective date of this subsection shall be reimbursed at the rate established prior to such date for each such lease. Renegotiated leases shall be reimbursed at established rates, plus a reasonable annual increase.

56-105. PROSPECTIVE PAYMENTS. Not later than November 30, 1981, the director shall establish by rule to be effective January 1, 1982, as determined and agreed upon pursuant to section 56-130, Idaho Code, and in accordance with section 56-135, Idaho Code, a uniform mechanism for monthly payment to facilities of such amounts as are appropriate to reflect the actual payment per patient-day of care provided to recipients by each facility in each class, as determined pursuant to section 56-103, Idaho Code, and part B or C, whichever is applicable, of this chapter.

56-106. ADJUSTMENT OF PROSPECTIVE PAYMENTS. Not later than November 30, 1981, the director shall establish by rule to be effective January 1, 1982, in accordance with section 56-135, Idaho Code, uniform definitions, standards, and procedures for individual facility adjustments to prospective payments established for each class of facilities, during the fiscal year in which they are effective for each such facility, which are based on determinations made and agreements reached pursuant to section 56-130, Idaho Code. Such adjustments may be made periodically but shall occur not more often than twice for each facility's fiscal year in which the rate is effective.

56-107. AUDIT AND SETTLEMENT OF PROSPECTIVE PAYMENTS. Not later than November 30, 1981, the director shall establish by rule to be effective January 1, 1982, in accordance with section 56-135, Idaho Code, uniform standards and procedures for cost reporting by, audit of, and settlement with individual facilities in each class concerning prospective payments made to such facilities as established or adjusted under this chapter. Such standards and procedures shall reflect determinations made and agreements reached pursuant to section 56-130, Idaho Code.

56-108. PROPERTY REIMBURSEMENT -- FACILITIES WILL BE PAID A PROPERTY RENTAL RATE, PROPERTY TAXES AND REASONABLE PROPERTY INSURANCE. The provisions of this section shall not apply to hospital-based facilities which are subject to the provisions of section 56-120, Idaho Code, or to intermediate care facilities for the mentally retarded which are subject to the provisions of section 56-113, Idaho Code. The provisions of this section are applicable to all other facilities. The property rental rate includes compensation for major movable equipment but not for minor movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. Prior to final audit, the director shall determine an interim rate that approximates the property rental rate. The property rental rate shall be determined as follows:

(1) Except as determined pursuant to this section and as modified by section 56-109, Idaho Code:

$$\text{Property rental rate} = (\text{"Property base"}) \times (\text{"Change in building costs"}) \times \frac{(40 - \text{"Age of facility"})}{40} *$$

where:

(a) "Property base" = \$9.24 for all facilities.

(b) "Change in building costs" = 1.0 from April 1, 1985, through December 31, 1985. Thereafter "Change in building costs" will be adjusted for each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year, published by the Marshall Swift Valuation Service. However, for free-standing skilled care facilities "change in building costs" = 1.145 from July 1, 1991, through December 31, 1991. Thereafter, change in building costs for free-standing skilled care facilities will be adjusted each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year as published by the Marshall Swift Valuation Service or the consumer price index for renter's costs available in September of the prior year, whichever is greater.

(c) "Age of facility" = the director shall determine the effective age, in years, of the facility by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof shall be assigned an age of more than thirty (30) years. However, beginning July 1, 1991, for free-standing skilled care facilities, "age of facility" will be a revised age which is the lesser of the age established under other provisions of this section or the age which most closely yields the rate allowable to existing facilities as of June 30, 1991, under subsection (1) of this section. This revised age shall not increase over time.

(i) If adequate information is not submitted by the facility to document that the facility, or portion thereof, is newer than thirty (30) years, the director shall set the effective age at thirty (30) years. Adequate documentation shall include, but not be limited to, such documents as copies of building permits, tax assessors' records, receipts, invoices, building contracts, and original notes of indebtedness. The director shall compute an appropriate age for facilities when documentation is provided to reflect expenditures for building expansion or remodeling prior to the effective date of this section. The computation shall decrease the age of a facility by an amount consistent with the expenditure and the square footage impacted and shall be calculated as follows:

1. Determine, according to indexes published by the Marshall Swift Valuation Service, the construction cost per square foot of an average class D convalescent hospital in the western region for the year in which the expansion or renovation was completed.

2. Multiply the total square footage of the building following the expansion or renovation by the cost per square foot to establish the estimated replacement cost of the building at that time.

3. The age of the building at the time of construction shall be multiplied by the quotient of total actual renovation or remodeling costs divided by replacement cost. If this number is equal to or greater than 2.0, the age of the building in years will be reduced by this number, rounded to the nearest whole number. In no case will the age be less than zero.

(ii) The director shall adjust the effective age of a facility when major repairs, replacement, remodeling or renovation initiated after April 1, 1985, would result in a change in age of at least one (1) year. Such changes shall not increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the adjusted property base determined in subsections (1)(a) and (1)(b) of this section and the rental rate paid to the facility at the time of completion of such changes but before the change component has been added to said rate. The adjusted effective age of the facility will be used in future age determinations, unless modified by provisions of this chapter.

(iii) The director shall allow for future adjustments to the effective age of a facility or its rate to reimburse an appropriate amount for property expenditures resulting from new requirements imposed by state or federal agencies. The director shall, within twelve (12) months of verification of expenditure, reimburse the medicaid share of the entire cost of such new requirements as a one-time payment if the incurred cost for a facility is less than one hundred dollars ($100) per bed.

(d) At no time shall the property rental rate, established under subsection (1) of this section, be less than that allowed in subsection (1)(c)(ii), with the rate in effect December 31, 1988 being the base. However, subsequent to the application of this paragraph, before any rate increase may be paid, it must first be offset by any rate decrease that would have been realized if the provisions of this paragraph had not been in effect.

(2) A "grandfathered rate" for existing facilities will be determined by dividing the audited allowable annual property costs, exclusive of taxes and insurance, for assets on hand as of January 1, 1985 by the total patient days in the period July 1, 1984 through Ju ne 30, 1985. The property rental rate will be the greater of the amount determined pursuant to subsection (1) of this section, or the grandfathered rate. The director shall adjust the grandfathered rate of a facility to compensate the owner for the cost of major repairs, replacement, expansion, remodeling and renovation initiated prior to April 1, 1985, and completed after January 1, 1985, but completed no later than December 31, 1985. [The director shall adjust the grandfathered rate of a facility to compensate the owner for the cost of major repairs, replacement, expansion, remodeling and renovation initiated prior to April 1, 1985, and completed after January 1, 1985, but completed no later than December 31, 1985.] For facilities receiving a grandfathered rate making major repairs, replacement, expansion, remodeling or renovation, initiated after January 1, 1986, the director shall compare the grandfathered rate of the facility to the actual depreciation, amortization, and interest for the current audit period plus the per diem of the recognized cost of major repairs, replacement, expansion, remodeling or renovation, amortized over the American hospital association guideline component useful life. The greater of the two (2) numbers will be allowed as the grandfathered rate. Such changes shall not increase the allowable grandfathered rate by more than three-fourths (3/4) of the difference between the current grandfathered rate and the adjusted property base determined in subsections (1)(a) and (1)(b) of this section.

(3) The property rental rate per day of care paid to facilities with leases signed prior to March 30, 1981, will be the sum of the annualized allowed lease costs and the other annualized property costs for assets on hand as of January 1, 1985, exclusive of taxes and insurance when paid separately, divided by total patient days in the period June 30, 1983 through July 1, 1984. Effective July 1, 1989, the director shall adjust the property rental rate of a leased skilled facility under this paragraph to compensate for the cost of major repairs, replacement, expansion, remodeling and renovation initiated after January 1, 1985, by adding the per diem of the recognized cost of such expenditures amortized over the American hospital association guideline component useful life. Such addition shall not increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the current property rental rate and the adjusted property base as determined in paragraphs (a) and (b) of subsection (1) of this section. Where such leases contain provisions that bind the lessee to accept an increased rate, reimbursement shall be at a rate per day of care which reflects the increase in the lease rate. Where such leases bind the

lessee to the lease and allow the rate to be renegotiated, reimbursement shall be at a rate per day of care which reflects an annual increase in the lease rate not to exceed the increase in the consumer price index for renters costs. After the effective date of this subsection, if such a lease is terminated or if the lease allows the lessee the option to terminate other than by purchase of the facility, the property rental rate shall become the amount determined by the formula in subsection (1) of this section as of the date on which the lease is or could be terminated.

(4) (a) In the event of a sale, the buyer shall receive the property rental rate as provided in subsection (1) of this section, except under the conditions of paragraph (b) of this subsection or except in the event of the first sale for a free-standing skilled care facility receiving a grandfathered rate after June 30, 1991, whereupon the new owner shall receive the same rate that the seller would have received at any given point in time. (b) In the event of a forced sale of a facility where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or the property rental rate, not modified by section 56-109, Idaho Code, whichever is higher, but not exceeding the rate that would be due the seller.

*The underscore was added by the compiler. Original enactment included underscore for a division line.

56-109. PROPERTY RENTAL RATE IMPLEMENTATION SCHEDULE. The property rental rate as defined in section 56-108, Idaho Code, shall be phased in through December 31, 1989. Facilities with existing rates equal to or greater than the property rental rate according to provisions of section 56-108, Idaho Code, shall not be phased in. The phase-in shall be implemented so that when the grandfathered rate as defined in section 56-108, Idaho Code, is below the property rental rate, the rate paid will be determined as follows:

(1) For the period ending December 31, 1985: grandfathered rate plus twenty percent (20%) of the difference between grandfathered rate and property rental rate.

(2) For the period January 1, 1986 through December 31, 1986: grandfathered rate plus forty percent (40%) of the difference between grandfathered rate and property rental rate.

(3) For the period January 1, 1987 through December 31, 1987: grandfathered rate plus sixty percent (60%) of the difference between grandfathered rate and property rental rate.

(4) For the period January 1, 1988 through December 31, 1988: grandfathered rate plus eighty percent (80%) of the difference between grandfathered rate and property rental rate.

(5) For the period January 1, 1989 forward: property rental rate.

56-110. EXISTING FREE-STANDING SKILLED CARE FACILITIES.

(a) Not later than January 1, 1982, and prior to the beginning of each fiscal year thereafter, the director shall determine the maximum base rate for all free-standing skilled care facilities that were under medicaid contract with the director on or before January 1, 1982, as a class, using the following method:

(1) First, from the most recent cost report submitted by each free-standing skilled care facility, the director shall prior to ninety (90) days before the beginning of the period for which the percentile cap is being determined, add together all nonproperty, nonutility costs (administration, food, nursing services, and operations) incurred by each facility; provided, that, where such facility provides care to the mentally-retarded, costs peculiar to such care shall first be exempted from consideration herein and shall be paid in accordance with the provider reimbursement manual, as defined in this subsection. A cost report covering less than a twelve (12) month period shall be annualized for purposes of determining current interim rate entitlement and percentile cap cost data as further provided;

(2) Next, the director shall divide the sum obtained from paragraph (1) of this section by the total number of patient-days of care, taken from each cost report;

(3) Next, the director shall multiply the cost of care per patient-day obtained from paragraph (2) of this section by the percentage representing the annual combined inflator index, for the period in which the base rate is to be effective, as determined and agreed upon pursuant to section 56-130, Idaho Code;

(4) Next, the director shall combine the results from each such facility obtained from paragraph (3) to establish the range of costs of care per patient-day for all such facilities; and

(5) Next, the director shall calculate the mean cost of care per patient-day and the standard deviation from such mean, which shall be used to determine the base rate as specified in section 56-103(a), Idaho Code.

(6) Any cost increases resulting from federal or state law or rule changes shall be passed through automatically and will be treated as costs separate from the cap cost center until such time as these costs have become part of the data base for calculating the percentile cap. The providers efficiency incentive shall not be affected by these increases. The result obtained from paragraph (5) or (6) of this subsection shall constitute the basic payment for the cost of care per patient-day in each free-standing skilled facility in the class, and the director shall notify each such facility of such payment not later than sixty (60) days prior to the fiscal year in which it is to become effective. A rebuttable presumption exists with respect to costs above the basic payment that a facility incurring such costs is not economically and efficiently operated, taking into account economic conditions and trends during the period covered by such costs, and that such costs are not reasonable. Such rebuttable presumption shall not be employed to justify costs below the basic payment. For purposes of this subsection, "audited cost report" means a cost report prepared and submitted to the director by a free-standing skilled care facility and audited by the director in accordance with the provider reimbursement manual, as promulgated by the director for the Idaho

medicaid program, and the health insurance manual 15, as promulgated by the United States department of health and human services or its predecessor agency; provided, that the provider reimbursement manual shall take precedence over the health insurance manual 15 in case of conflict, ambiguity or disagreement.

(b) In addition to the basic payment per patient-day of care, as calculated in subsection (a) of this section, each free-standing skilled nursing facility shall be paid as a part of the monthly prospective payment:

(1) Its property rental rate plus projected property taxes, reasonable property insurance, and utility costs, to be determined by dividing its total projected property taxes, reasonable property insurance, and utility costs for its upcoming fiscal year, by the projected number of patient-days; and

(2) A monthly incentive payment equal to the computed difference between the facility's actual payment per patient-day and the base rate established for the class pursuant to section 56-103(a), Idaho Code, and this part. This computed difference shall be:

1. One-half (1/2) of the difference, where the one hundredth percentile applies to such facility's class;

2. One-third (1/3) of the difference, where the ninetieth percentile applies to such facility's class;

3. One-fourth (1/4) of the difference, where the eightieth percentile applies to such facility's class; or

4. One-sixth (1/6) of the difference, where the seventy-fifth percentile applies to such facility's class; provided, that in no event shall the computed difference exceed one dollar and fifty cents ($1.50) per patient-day.

(c) Actual payments made by the director to each free-standing skilled care facility pursuant to sections 56-103 and 56-105, Idaho Code, and this section, shall be subject to audit and settlement under section 56-107, Idaho Code. In no event shall reimbursement to any facility exceed the usual and customary charges made to private pay patients.

56-111. NEW FREE-STANDING SKILLED CARE FACILITIES. For the first fiscal year of a free-standing skilled care facility established on or after January 1, 1982, which seeks to contract for the first time to provide medicaid services to recipients, the director shall determine payment in the same manner as specified in section 56-110, Idaho Code, except that, in lieu of the most recent audited cost report, the free-standing skilled care facility shall submit to the director, not later than ninety (90) days prior to the beginning date of the fiscal year in which the prospective rate is to be effective, a prospective budget containing the information necessary to complete the formula set forth in section 56-110, Idaho Code. Thereafter, such determination for such facility shall be done in accordance with section 56-110, Idaho Code.